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CONDENSED

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel.
W. A. DREW EDMONDSON, in his
capacity as ATTORNEY GENERAL
OF THE STATE OF OKLAHOMA and
OKLAHOMA SECRETARY OF THE
ENVIRONMENT C. MILES TOLBERT
in his capacity as the TRUSTEE
FOR NATURAL RESOURCES FOR
THE STATE OF OKLAHOMA,

Plaintiffs

vs.

05-CV-0329 GKF SAJ

TYSON FOODS, INC., TYSON
POULTRY, INC., TYSON CHICKEN,
INC., COBB-VANTRESS, INC.,
AVIAGEN, INC., CAL-MAINE FOODS,
INC., CAL-MAINE FARMS, INC.,
CARGILL, INC., CARGILL TURKEY
PRODUCTION, LLC, GEORGE'S, INC.,
GEORGE'S FARMS, INC., PETERSON
FARMS, INC., SIMMONS FOODS, INC.,
and WILLOW BROOK FOODS, INC.,

Defendants

**VOLUME II
VIDEOTAPE DEPOSITION OF ALAN LEE FORD**

Taken on Behalf of the Defendants
On July 21, 2008, beginning at 9:00 a.m.
In Oklahoma City, Oklahoma

APPEARANCES:

Appearing on behalf of the PLAINTIFF
STATE OF OKLAHOMA

Robert A. Nance
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Reported By: Becky C. Dame, CSR, RPR



EXHIBIT

2

PR#9833

FORD, ALAN

7/21/2008

<p>1 MS. SOUTHERLAND: I have no questions.</p> <p>2 MR. NANCE: Does anyone on the phone have</p> <p>3 any questions?</p> <p>4 MS. GRIFFIN: No.</p> <p>5 MR. SANDERS: Not for Cal-Maine.</p> <p>6 MR. NANCE: Let's take a short break and</p> <p>7 then we'll have a few.</p> <p>8 THE VIDEOGRAPHER: Off the record at 2:30.</p> <p>9 (Off the record.)</p> <p>10 THE VIDEOGRAPHER: We're on the record at</p> <p>11 2:54.</p> <p>12 CROSS-EXAMINATION</p> <p>13 BY MR. NANCE:</p> <p>14 Q Good afternoon, Mr. Ford. As I think you</p> <p>15 know, I'm Bob Nance. I represent the State of</p> <p>16 Oklahoma.</p> <p>17 A Yes, sir.</p> <p>18 Q Let me ask you to think back to the time</p> <p>19 when you came to work at the Department of Central</p> <p>20 Services in January of 2006.</p> <p>21 Would you tell us, please, what the</p> <p>22 condition of the real property inventory was at that</p> <p>23 time?</p> <p>24 A Well, it was -- there was an electronic</p> <p>25 version, but it was basically useless. You couldn't</p> <p>154</p>	<p>1 On a number of occasions you told Mr. Bond</p> <p>2 that you did not have information, for instance,</p> <p>3 about the depth of groundwater.</p> <p>4 Do you recall that testimony?</p> <p>5 A Yes, sir.</p> <p>6 Q When you talked with people about various</p> <p>7 locations, did you ask them about the depth of</p> <p>8 groundwater?</p> <p>9 A Yes, sir, I did. I always asked that.</p> <p>10 Q Let me invite you to think about Natural</p> <p>11 Falls State Park.</p> <p>12 Is there a spring on that location?</p> <p>13 A There is a spring at that location.</p> <p>14 Q So we know, at least at that point,</p> <p>15 there's groundwater that surfaces at that location;</p> <p>16 is that correct?</p> <p>17 A That's correct.</p> <p>18 Q Okay. Mr. Bond asked you a number of</p> <p>19 questions over -- I guess in the first session about</p> <p>20 the State's assertion of standing to sue these</p> <p>21 defendants for trespassing.</p> <p>22 Do you recall talking about that?</p> <p>23 A Yes, sir, I do.</p> <p>24 Q Okay. Let me ask you if the State of</p> <p>25 Oklahoma asserts standing to sue these defendants</p> <p>156</p>
<p>1 do any kind of sorts, you couldn't print off any</p> <p>2 reports unless you printed one record per page. You</p> <p>3 couldn't manipulate that data in any way. The</p> <p>4 access database that makes up the real property</p> <p>5 inventory at that time had lost basically all its</p> <p>6 functionality.</p> <p>7 The records were kept in several different</p> <p>8 places. The electronic records, copies of deeds,</p> <p>9 agreements, the paper records, copies of deeds,</p> <p>10 abstracts, agreements, kept in about three different</p> <p>11 places. There had really been no one working the</p> <p>12 real property inventory for the last several years.</p> <p>13 Q In January 2006, could that database sort</p> <p>14 properties by county the way you've done on the</p> <p>15 spreadsheet you've given us in this deposition?</p> <p>16 A No, sir. I couldn't make it sort in any</p> <p>17 way, shape, or form --</p> <p>18 Q Okay.</p> <p>19 A -- so I couldn't have given you counties.</p> <p>20 Q Okay. And in the intervening</p> <p>21 two-and-a-half years, have you whipped that database</p> <p>22 into the shape that it's in today?</p> <p>23 A Sir, yes, sir.</p> <p>24 Q I'm going to jump around here a little bit</p> <p>25 and I apologize.</p> <p>155</p>	<p>1 for trespass for all surface waters in definite</p> <p>2 streams in the Oklahoma portion of the Illinois</p> <p>3 River Watershed?</p> <p>4 A Yes, sir.</p> <p>5 Q Would that include the main stem of the</p> <p>6 Illinois River?</p> <p>7 A Yes, sir, it would.</p> <p>8 Q Would it include Lake Tenkiller?</p> <p>9 A Yes, sir, it would.</p> <p>10 Q Would it include the tributaries of either</p> <p>11 the Illinois River or Lake Tenkiller?</p> <p>12 A Yes, sir, it would.</p> <p>13 Q Where there's water flowing in a definite</p> <p>14 stream?</p> <p>15 A Yes, sir.</p> <p>16 Q And in connection with the discussion you</p> <p>17 had about groundwater, does the State of Oklahoma</p> <p>18 assert standing to sue these defendants for trespass</p> <p>19 for the groundwater under any property owned or</p> <p>20 leased by the State of Oklahoma?</p> <p>21 A Yes, sir.</p> <p>22 Q So if -- if we went through every one of</p> <p>23 the properties in your spreadsheet, and I asked you</p> <p>24 the same question about this property or that</p> <p>25 property, would the answer be the same?</p> <p>157</p>

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PR#9833

FORD, ALAN

7/21/2008

<p>1 A That's correct, it would be the same.</p> <p>2 Q Okay. And any property owned or leased</p> <p>3 that you discussed with Mr. Bond, or even that you</p> <p>4 haven't discussed that's in the spreadsheet?</p> <p>5 A That's correct.</p> <p>6 Q Let's talk for a moment about flowing</p> <p>7 groundwater. That's groundwater in a definite</p> <p>8 stream underground. Okay?</p> <p>9 A Okay.</p> <p>10 Q Does the State of Oklahoma assert standing</p> <p>11 to sue these defendants in trespass for groundwater</p> <p>12 in definite streams flowing under the surface in the</p> <p>13 Oklahoma portion of the Illinois River Watershed?</p> <p>14 A Yes, sir, that's correct.</p> <p>15 Q And would that be true no matter who the</p> <p>16 surface owner was?</p> <p>17 A Yes, sir, that is correct.</p> <p>18 Q You talked with Mr. Bond about, oh,</p> <p>19 reporting, annual reporting or monthly reporting</p> <p>20 documents on the land application from -- I think it</p> <p>21 was mentioned in Paragraph 10 of Exhibit 11.</p> <p>22 Do you recall that?</p> <p>23 A Yes, sir.</p> <p>24 Q And you said that there were no monthly</p> <p>25 reports provided; is that right?</p> <p style="text-align: center;">158</p>	<p>1 which is on the west side of the W May, about</p> <p>2 halfway between north and south to both northern and</p> <p>3 southern boundaries.</p> <p>4 Q Okay. What about fertilizing in the past</p> <p>5 on the Cherokee Wildlife Management Areas?</p> <p>6 A They have fertilized for the last several</p> <p>7 years ago -- or several years ago. Again, they're</p> <p>8 growing clover. They're applying basically at the</p> <p>9 same rate that they do at the Cookson Wildlife</p> <p>10 Management Area.</p> <p>11 Q Okay.</p> <p>12 A Five times in the last ten years,</p> <p>13 somewhere in there.</p> <p>14 Q All right, sir. There was some discussion</p> <p>15 you had with Mr. Bond about the date of the</p> <p>16 construction of the pit privies in the Scenic Rivers</p> <p>17 Access Areas.</p> <p>18 Do you recall that testimony?</p> <p>19 A Yes, sir.</p> <p>20 Q As a result of additional inquiry, can you</p> <p>21 give us any more precise date of the construction of</p> <p>22 those various pit privies?</p> <p>23 A They were all built between 1988 and 1994.</p> <p>24 Q Okay.</p> <p>25 MR. NANCE: Mr. Bond, can I borrow one of</p> <p style="text-align: center;">160</p>
<p>1 A That's correct.</p> <p>2 Q Was that because they did not apply</p> <p>3 outside the lagoons?</p> <p>4 A That's because they did not apply outside</p> <p>5 the lagoons, yes, sir.</p> <p>6 Q Okay. I think we have made some</p> <p>7 supplemental inquiry about fertilizing some of these</p> <p>8 waste management areas -- wildlife management areas.</p> <p>9 Let me ask you if we have determined whether or not</p> <p>10 there was any fertilizer applied in the past at the</p> <p>11 Cookson Wildlife Management Area?</p> <p>12 A No, sir, there's none.</p> <p>13 Q Do you have a handwritten note?</p> <p>14 A Yes, I do. Okay. I'm sorry.</p> <p>15 This information provided to me by</p> <p>16 counsel. Now, what facility are we talking about?</p> <p>17 I'm sorry.</p> <p>18 Q Cookson.</p> <p>19 A They fertilized last year roughly the same</p> <p>20 amount as this year. They fertilized approximately</p> <p>21 five times in the last ten years. Fertilizer was</p> <p>22 applied after a soil test was conducted.</p> <p>23 They're growing clover for these wildlife</p> <p>24 management areas, is what they're doing. They've</p> <p>25 got four fields east of the headquarters building</p> <p style="text-align: center;">159</p>	<p>1 your Exhibit stickers?</p> <p>2 MR. NANCE: If we skipped 27, we'll fill</p> <p>3 it in. Let me hand you those I think I gave you one</p> <p>4 earlier. I'm going to have to ask for one back.</p> <p>5 (Exhibit 27 marked for identification.)</p> <p>6 BY MR. NANCE:</p> <p>7 Q Mr. Ford, I've marked as Exhibit 27</p> <p>8 something I think you have a copy of. It's -- would</p> <p>9 these be printouts of computer screen maps for</p> <p>10 various wildlife management areas?</p> <p>11 A Yes, they are.</p> <p>12 Q Okay. And do these come from the system</p> <p>13 maintained by the Oklahoma Wildlife -- Oklahoma</p> <p>14 Department of Wildlife Conservation?</p> <p>15 A Yes, sir, they are.</p> <p>16 Q Okay. I would like to invite your</p> <p>17 attention to the very last page of Exhibit 27, and,</p> <p>18 particularly, I want to talk with you about the two</p> <p>19 areas at the bottom of that map, the lower Illinois</p> <p>20 River PFHA and the Kerr-McClellan Wildlife</p> <p>21 Management Area, Robert S. Kerr Pool.</p> <p>22 Do you see those down there?</p> <p>23 A Yes, sir, I do.</p> <p>24 Q Let me ask you whether the State of</p> <p>25 Oklahoma own those two areas?</p> <p style="text-align: center;">161</p>

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